

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BRIAN FENSTERER,

Plaintiff,

Case No. 15-10500

v.

Hon. John Corbett O'Meara

OPERATING ENGINEERS  
LOCAL 324 PENSION FUND, *et al.*,

Defendants.

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**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION**

Before the court is Plaintiff's motion for reconsideration of this court's July 10, 2015 order denying his motion for discovery. The standard for granting a motion for reconsideration is as follows:

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration which merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

LR 7.1(h)(3). A motion for reconsideration "is not properly used as a vehicle to rehash old arguments or to advance positions that could have been argued earlier but

were not.” Smith v. Mount Pleasant Schools, 298 F. Supp.2d 636, 637 (E.D. Mich. 2003) (citing Sault Ste. Marie Tribe of Chippewa Indians v. Engler, 146 F.3d 357, 374 (6<sup>th</sup> Cir. 1998)).

Plaintiff contends that the court should permit him to add medical records to the administrative record. These records were not considered by the administrator. On review, this court is “confined to the record that was before the Plan Administrator.” Wilkins v. Baptist Healthcare Sys., Inc., 150 F.3d 609, 615 (6<sup>th</sup> Cir. 1998). Based upon this authority, Plaintiff has not demonstrated a “palpable defect” warranting reconsideration.

Accordingly, IT IS HEREBY ORDERED that Plaintiff’s July 23, 2015 motion for reconsideration is DENIED.

s/John Corbett O’Meara  
United States District Judge

Date: August 12, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, August 12, 2015, using the ECF system.

s/William Barkholz  
Case Manager